STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

North Shore Gas Company	)	
	)	ICC Docket No. 10-0280
Proposed General Increase in Natural Gas Rates.	)	
	)	consolidated with
The Peoples Gas Light and Coke Company	)	
	)	ICC Docket No. 10-0281
Proposed General Increase in Natural Gas Rates.	)	

DRAFT PROPOSED ORDER

On behalf of

Interstate Gas Supply of Illinois, Inc.

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DRAFT PROPOSED ORDER OF INTERSTATE GAS SUPPLY OF ILLINOIS, INC.

Interstate Gas Supply of Illinois, Inc. ("IGS"), by and through its attorneys, DLA Piper LLP (US), pursuant to Section 200.810 of the Rules of Practice of the Illinois Commerce Commission ("Commission") (83 Ill. Admin. Code 200.810), respectfully submits its Draft Proposed Order in the instant proceeding addressing the proposed general increase in natural gas delivery rates of North Shore Gas Company ("North Shore") and The Peoples Gas Light and Coke Company ("Peoples") (collectively "Companies" or "Utilities").

I.

INTRODUCTION[1]

A. Summary

IGS suggests that, consistent with the Commission's Final Order in the Companies' last rate case, ICC Docket Nos. 09-0166/-0167, the Commission should continue to encourage and advance development of the competitive by fixing anti-competitive imbalances. (*See* IGS Initial Brief at 1-2.) IGS points out that in the Companies' last rate case, the Commission compelled the Companies to undertake workshops to eliminate market rules that harmed competition by requiring the Companies to adopt (or propose alternatives to) the best practices available in

[1] This Draft Proposed Order follows the "Common Outline" of issues.

Illinois. (*See id.*) IGS argues that although many of the issues raised in the Companies' last rate case were addressed in that workshop process, the administrative fees associated with the Companies' choice programs were not addressed and remain anti-competitive in the manner that those fees are calculated and recovered. In particular, IGS explains that certain administrative fees double charge Choices For You (small volume transportation) customers and charge Choices For You customers for costs they do not cause and from which they do not benefit. (*See* IGS Initial Brief at 2, 4.) IGS further points out that other administrative fees unfairly recover costs only from Choices For You customers that fund programs that benefit not only current Choices For You customers but also all customers who eligible to take competitive service in the Choices For You program. (*See id.*.) In its analysis, IGS distinguishes between two sets of administrative fees:

- **Generally Applicable Administrative Fees.** Generally applicable administrative fees are charged to all members of a service class. (*See* IGS Initial Brief at 10-11.) IGS establishes that these fees, for Service Classes 1 and 2, include costs that Choices For You customers do not cause, but that Choices For You customers are nonetheless charged. (*See, e.g., id.* at 12-14.) These generally applicable administrative fees are discussed in Section XI.C of this Order.

- **Choices For You Administrative Fees.** Choices For You administrative fees are the fees charged to Choices For You suppliers (which are passed on to Choices For You customers) that pay for a portion of the costs of the Gas Transportation Services ("GTS") department. (*See* IGS Initial Brief at 16, 22.) IGS first establishes that because all eligible customers -- whether Choices For You or sales -- benefit from the existence of Choices For You, all customers should pay for Choices For You. (*See* IGS Initial Brief at 17-22.) IGS further establishes that the Companies' proposed allocation of GTS department costs fails to reflect cost causation. These Choices For You administrative fees are discussed in Section XI.E of this Order.

1. Commission Policy Favors Competition And Assigning Costs To Cost Causers

IGS points out that since the beginning of mass market natural gas competition, the Commission has clearly articulated a policy favoring competition. (*See* IGS Initial Brief at 2-3.) IGS cites to the Commission Orders approving expansion of mass market natural gas competition in the Nicor Gas and the Companies' service territories, and the Companies' recent rate cases. (*See id.*) As IGS notes, the Commission explained and reaffirmed its continued "commit[ment] to encouraging competitive gas supply, so that customers enjoy the benefits competition can provide" in the Companies' 2007 Rate Case. (ICC Docket Nos. 07-0241/-0242 (cons.) Final Order dated February 5, 2008 at 278 (quoted in IGS Initial Brief at 3).)

IGS also notes the Commission's longstanding commitment to assigning costs to cost causers, and costs of programs to beneficiaries of programs. (*See* IGS Initial Brief at 3.) IGS argues that no party disputes these cost causation principles. (*See id.*)

2. The Companies' Anti-Competitive Subsidies Should Be Eliminated

IGS explains that the Companies propose to continue several anti-competitive cross subsidies that revolve around the Choices For You program. (*See* IGS Initial Brief at 3-4, 12-14.) IGS presented its expert witness, Vincent A. Parisi, who provided substantial testimony about Choices For You customers being forced to pay for costs they did not cause while simultaneously alone paying for the Choices For You program, which benefits all eligible customers. (*See id.* at 3-4, 12-14, 17-22.) In addition, IGS demonstrates that the Companies have been improperly subsidizing its affiliate's (Peoples Energy Home Services, or "PEHS") warranty product (Pipeline Protection Plan, or "PPP") to the detriment of both the competitive market for warranty products and ratepayers. (*See* IGS Initial Brief at 5-9; *see also* Staff Initial Brief at 37-51.) IGS urges the Commission to eliminate the Choices For You-related cross subsidies and the Companies' subsidy of its affiliate's warranty product, consistent with long-standing Commission policy favoring competition and assigning costs to cost causers.

3. Relief Requested

IGS requests that the Commission grant the following relief:

- **Compel the Companies to charge generally applicable administrative fees in the same way that Choices For You administrative fees are charged -- preferably charging both to all eligible customers.** Currently, the Companies charge all customers (whether sales or Choices For You) for administrative functions that *only* support sales customers and are of no benefit to Choices For You customers. Conversely, the Companies only charge Choices For You customers for functions that exclusively support the Choices For You program. The current approach creates a market imbalance and a subsidy favoring sales customers paid for by Choices For You customers. IGS notes that the Commission can solve this issue by taking the same approach for both sets of administrative fees. This can be accomplished in one of two ways: (1) charge all customers for all administrative fees (as the Companies currently propose to do for generally applicable administrative fees), or (2) undertake a detailed cost analysis of generally applicable administrative fees and exclude costs supporting sales customers only from Choices For You customers (as the Companies currently propose for Choices For You administrative fees). Although both would be acceptable to IGS, in part due to the fact that the Companies do not track the cost information for each function supporting their proposed administrative fees, IGS recommends that the Commission in this case charge all administrative fees applicable to sales and Choices For You customers to *both* sales and Choices For You customers.

- **If the Commission does not charge Choices For You administrative fees to all eligible customers, the Companies should be required to undertake a detailed cost study to accurately establish the credits that Choices For You customers should receive.** The evidence establishes that Choices For You customers pay for costs associated with sales customers, but that eligible sales customers do not contribute to Choices For You costs. If the Commission declines to direct the Companies to charge all eligible customers the administrative costs associated with the Choices For You program, the Companies should be required to undertake a detailed cost study – the information provided by the Companies in this proceeding is inadequate to establish fair and accurate cost assignment. The detailed cost study would be used to establish the credit due back to Choices For You customers against costs that those customers do not cause, or identified areas of double billing.

- **Adopt Staff's recommendation to require an investigation into the Companies' support of their affiliate's warranty product.** IGS recognizes that Staff presented thorough and convincing evidence that the Companies' support for their affiliate's warranty product requires additional investigation from the Commission.

- **Eliminate subsidies and inequitable access to utility services supporting non-commodity products.** IGS notes that Staff -- and the Companies -- provided significant evidence that the Companies subsidize their affiliate's warranty product. In addition, IGS pointed out additional competitive imbalances, most notably restricted access to the utility bill and no access to the Companies' solicitation apparatus. IGS recommends that the Commission require the Companies to provide access to the utility bill and solicitation services on a non-discriminatory basis to non-affiliates.

V.

OPERATING EXPENSES

C. Contested Issues

8. Revenues[2]

IGS and Staff presented substantial evidence regarding the subsidies that the Companies provide to their affiliate PEHS in support of the PPP warranty product. (*See* IGS Initial Brief at 6-9; Staff Initial Brief at 37-51.) IGS supports Staff's findings and conclusions that the Companies have potentially violated their affiliated interest agreement, and should have to petition the Commission to continue providing support to PEHS in support of the PPP product. (*See, e.g.*, IGS Initial Brief at 5-8; Staff Initial Brief at 37-51.) In addition, IGS urges the Commission to require the Companies to provide the same services to non-affiliates as the Companies provide to affiliates (such as PEHS) on non-discriminatory terms, consistent with Staff and Nicor Gas's settlement in the Nicor merger proceeding (ICC Docket No. 11-0046). (*See* IGS Initial Brief at 6-9.) The dual effect of this requirement would be to open up the competitive market for warranty products and to potentially provide additional non-ratepayer revenue that could lead to a lower revenue requirement for all customers. (*See, e.g.*, IGS Initial Brief at 5, 8-9; Staff Initial Brief at 47-51.)

b. Other Issues Relating to PEHS and PPP, Including Staff Request for Investigation

IGS supports Staff's recommendation that within 90 days of the Final Order in the present dockets the Companies should be required to petition to continue providing support to PEHS, the Companies' affiliate that provides a warranty product. (*See, e.g.*, IGS Initial Brief at

[2] This section of the briefing outline also addresses non-revenue issues related to the Companies' treatment of warranty products.

5-6, Staff Initial Brief at 50-51.) IGS notes that Staff expert witness Mr. Sackett provided compelling evidence to demonstrate that the Companies subsidize their affiliate by undercharging for solicitation and repair services and possibly not charging at all for certain components of solicitation. (*See, e.g.* Staff Initial Brief at 37-51; IGS Initial Brief at 6.) IGS finds potential merit in Mr. Sackett's question of whether the services provided by the Companies might not even be authorized under the Companies' Affiliated Interests Agreement. (*See* Staff Initial Brief at 50-51; IGS Initial Brief at 6.) In addition, IGS points out that, through IGS's Data Request, the Companies discovered an error in how much the Companies charge their affiliate for billing, and all parties agree that the Companies have been undercharging PEHS for billing services. (*See* IGS Initial Brief at 6; *id.* at 9 (noting that the Companies agreed to increase billing cost to PEHS); Staff Initial Brief at 50; IGS Cross Exs. 5-6 (the Companies' Responses to Data Request IGS 4.03, agreeing to increase billing cost to affiliates).) IGS notes that Mr. Sackett also provided evidence that the Companies were not truthful with Staff regarding the warranty product. (*See* IGS Initial Brief at 6.) Based on the voluminous evidence that the Companies are subsidizing their affiliate, IGS supports Staff's recommendation and respectfully requests that the Commission require the Companies to initiate a proceeding in which the Commission can further investigate the way in which the companies support their affiliate's warranty products. (*See id.*)

COMMISSION ANALYSIS AND CONCLUSIONS

Staff and IGS have presented substantial and convincing evidence that the Commission needs to more fully investigate the subsidies the Companies provide to PEHS in support of PPP. As Staff succinctly stated: "[t]he proposed investigation is necessary to prevent ratepayers from continuing to subsidize the affiliates." (Staff Initial Brief at 50.) These subsidies harm the competitive market and effectively force ratepayers to subsidize the Companies' unregulated affiliate. Neither of those outcomes is conforms with Commission policy favoring competitively neutral cost recovery and non-discrimination in pricing. Therefore, the Commission adopts Staff's recommendation in full. The Companies shall, within 90 days, petition the Commission in order to continue to provide support to affiliates' products; the scope of the investigation shall be consistent with the recommendations of Staff witness Mr. Sackett. However, as described below in the discussion of Warranty Products, in light of the compelling evidentiary record in this proceeding, there is no need to wait for any further proceeding or investigation for the Commission will take certain initial steps in this docket to eliminate the subsidies that have been established in the evidentiary record in this proceeding.

c. Warranty Products (Revenue and Non-Revenue)

IGS describes several ways in which the Companies subsidize PEHS's PPP warranty product. The subsidies that IGS identifies break down into two basic categories: first, IGS and Staff identify subsidies through the Companies undercharging affiliates for services from billing to repairs and solicitation. (*See, e.g.*, IGS Initial Brief at 7-9, Staff Initial Brief at 37-51.) In addition, IGS identifies subsidies involving unique opportunities that the Companies afford only to PEHS or on different terms to PEHS, which include both access to the utility bill and solicitation services. (*See, e.g.*, IGS Initial Brief at 7-9.) IGS avers that both of these types of subsidies are problematic, and need to be addressed to support a competitive warranty product market and to remove the burden of the subsidies from ratepayers. (*See* IGS Initial Brief at 5, 7-8.) The way to address these subsidies, IGS argues, is to adopt Staff and IGS's proposal for the Companies to stop charging PEHS for services at below cost, but also to adopt IGS's proposal to require the Companies to offer the services -- specifically billing and solicitation -- provided to affiliates on a non-discriminatory basis to non-affiliates. (*See* IGS Initial Brief at 5, 7-9.)

IGS agrees with Staff's thorough analysis that the Companies undercharged their affiliate for repair and solicitation services. (*See* IGS Initial Brief at 7-8.) In addition, Staff and the Companies agreed with the finding in response to IGS Data Request 4.03 that the Companies are currently charging below cost for billing services to the PEHS. (*See, e.g.*, IGS Initial Brief at 8, 9; Staff Initial Brief at 50.) IGS argues it is "important" for the Companies to bill PEHS for the full cost of supporting services, and agrees with Staff that the Companies should charge PEHS the full cost of support services. (*See* IGS Initial Brief at 8.)

In addition to the undercharging identified by IGS and Staff, IGS presented evidence regarding unique and impossible to replicate opportunities that the Companies provide to PEHS to the exclusion of competitors or on different terms to competitors. For instance, IGS presented evidence that, in terms of developing a competitive warranty product market, the most important factor is access to the utility bill. (*See* IGS Initial Brief at 7-8.) IGS expert witness Mr. Parisi testified to the substantial benefits of access to the utility bill to market participants, most notably with lower acquisition costs, which in turn get passed along to the consumer. (*See* IGS Initial Brief at 7.) This is because, IGS explains, the utility bill is both familiar and convenient for consumers -- which cannot be duplicated at any cost -- and is a system already in place, from which the Companies can extract rental fees to the ratepayers' benefit. (*See* IGS Initial Brief at 7; *see also id.* at 9 (noting that when non-affiliates are allowed to pay for billing services, utility revenue potentially increases).) In addition, IGS argues, the increased ability to compete with PEHS -- which does have access to the utility bill -- leads to more robust competition, which would in turn lead to lower prices and more innovative products. (*See id.*)

IGS presents a similar explanation with regard to solicitation services, noting that some solicitation opportunities are unique to the utility as well. For example, Mr. Parisi testified that a non-utility affiliate cannot create access to moving calls at any cost if the utility refuses to provide such access. (*See* IGS Initial Brief at 8-9.) As a result, even if PEHS pays full the full cost for those services, the market remains skewed in favor of the Companies' affiliate that has access to the unique opportunity. (*See id.*)

IGS establishes that there is an imbalance in the competitive market that can only be cured by allowing competitors access to those unique opportunities on non-discriminatory terms. (*See* IGS Initial Brief at 5, 7-9.) IGS argues that Staff's solution to PEHS subsidies -- requiring the Companies to charge full price for services -- is important but "insufficient" to allow a competitive market to develop as long as non-affiliates do not have access to unique utility billing and solicitation opportunities on non-discriminatory terms. (*See id.*) As a result, in order to achieve full consistency with the Commission's policy favoring competition, IGS concludes that access to utility bills and unique solicitation opportunities on non-discriminatory terms is necessary to resolve the underlying problems with the Companies' subsidization of warranty products.

COMMISSION ANALYSIS AND CONCLUSIONS

IGS has presented substantial and compelling evidence that the Companies subsidize PEHS's PPP warranty product. Given that these subsidies -- as well as their anti-competitive effects -- have been acknowledged by Staff and IGS (and, to a certain extent, the Companies), the Commission must determine how to proceed with eliminating the subsidies and mitigating the anti-competitive and anti-ratepayer effects. Disappointingly, the Companies' suggestion doing nothing to address this situation. Staff's suggests that the Companies pay full price for repair services and back payment for solicitation services rendered but to prevent the Companies (or any others) from accessing solicitation services. Staff's suggestion is a better option than doing nothing, but it fails to address the market imbalances identified by IGS. However, it falls short of fully addressing our concerns relating to discriminatory pricing and treatment relating to warranty products. Thus, the Commission adopts IGS's proposal to require the Companies to allow non-affiliates access to utility bills and solicitation services on non-discriminatory terms. That approach is consistent with the approach Nicor Gas and Staff have agreed upon (with regards to billing and other non-solicitation services) in ICC Docket No. 11-0046, and it will benefit both the competitive market and ratepayers.

XI.

TRANSPORTATION ISSUES

IGS argues that evidence in the record firmly establishes that the Companies' proposed administrative charges create subsidies favoring sales customers at the expense of transportation customers, particularly Choices For You (small volume) transportation customers. (*See, e.g.*, IGS Initial Brief at 10-16.) IGS expert witness Mr. Parisi pointed out the fundamental disconnect between the two types of administrative fees charged to Choices For You customers and Choices For You-eligible sales customers: on one hand, costs caused only by sales customers are recovered through the generally applicable administrative fee. (*See, e.g.*, IGS Initial Brief at 12-13.) On the other hand, IGS explains that even though all eligible customers benefit from the existence of the Choices For You program because they could switch at any time, only Choices For You customers pay for Choices For You administrative fees. (*See, e.g.*, IGS Initial Brief at 10, 16-17.)

IGS concludes that this inconsistency leads to Choices For You customers subsidizing sales customers, which is both inconsistent with the Commission's policy favoring competition and the Commission's policy of assigning costs to cost causers. (*See* IGS Initial Brief at 16-17.) IGS argues that the best way to correct resolve that improper subsidy is (for now, at least) to charge all generally applicable administrative fees *and* all Choices For You administrative fees in the same way that generally applicable administrative fees are charged -- namely, to all eligible customers. (*See, e.g.*, IGS Initial Brief at 17-22.) IGS explains that this would be the simplest and most straightforward solution, especially given the lack of record evidence provided by the Companies regarding cost causation for both types of administrative fees. (*See id*.) IGS also explains that this approach would be consistent with the Commission's Order in the 2008 Nicor Rate Case. (*See id*.)

However, if the Commission rejects this proposal, IGS asks in the alternative for the Commission to require the Companies to undertake a thorough cost-causation analysis of both types of administrative fees to access the cost causation information that the Companies did not provide in response to IGS Data Requests. (*See, e.g.*, IGS Initial Brief at 22-24.)

Finally, IGS notes that regardless of the approach the Commission takes, it should modify how Large Volume Transportation customers are charged as well to be consistent with how Choices For You customers are charged to avoid any unintentional subsidies or inequities. (*See* IGS Initial Brief at 11.)

C. Administrative Charges

IGS presented significant and substantial evidence that the Companies' proposed generally applicable administrative charges included numerous costs attributable to sales customers only or that the Companies cannot show that Choices For You customers cause. (*See*

IGS Initial Brief at 12-14.) Compounding the problem, according to IGS, is the fact that similar costs caused by Choices For You customers are recovered only from Choices For You customers through the Choices For You administrative fee. (*See* IGS Initial Brief at 11.) IGS noted three examples in particular that it explored in the cross examination of Companies' witness Mr. McKendry, juxtaposing the collection of those costs with how similar costs supporting Choices For You customers are proposed to be recovered:

- **Call center.** IGS established that if a sales customer has a question related to the PGA, the customer's call goes through the call center that takes "general calls," whose costs are recovered through generally applicable administrative fees; however, Choices For You questions are routed to the Gas Transportation Department, whose costs are recovered through the Choices For You administrative fee. (*See* IGS Initial Brief at 12.)

- **Bill generation.** IGS noted that while commodity-related billing costs are recovered through base rates, costs for Choices For You billing are recovered through the Choices For You administrative fee. (*See* IGS Initial Brief at 12.)

- **Bill reconciliation.** IGS pointed out that costs incurred to reconcile commodity-related bills are recovered through base rates, while costs for reconciling Choices For You bills are recovered through the Choices For You administrative fees. (*See* Tr. 678:5-21; *see also* IGS Cross Ex. 11.)

IGS explained what these example demonstrate a stark inequity: although sales-specific charges are recovered through base rates (*i.e.* administrative fees to all customers, including Choices For You customers), Choices For You-specific costs are borne only by Choices For You customers. (*See* IGS Initial Brief at 12.) The Choices For You customers do <u>not</u> receive any credit associated with the components of sales-specific services recovered through base rates. As a result, the Choices For You customers are improperly billed twice for certain services (once through generally applicable administrative fees and then again through the Choices For You administrative fee). (*See id.* At 12-13.)

In addition to the topics explored with Companies' witness Mr. McKendry, IGS also presented evidence about additional costs that should be attributed to sales customers in whole or in larger part:

- **Over ten additional functions described in IGS Cross Exhibit 11.** Although IGS acknowledges that it did not go through each potentially overlapping or similar function with Companies' witness Mr. McKendry, IGS notes that the Companies did not provide specific evidence disputing that, for the listed functions, the Companies recovered sales-related charges from all customers and similar Choices For You-related costs only from Choices For You customers. (*See, e.g.,* IGS Initial Brief at 13; IGS Cross Ex. 11.)

- **Non-commodity uncollectable charges.** IGS notes that, due to market rules -- most notably the payment priority rules and the lack of a Purchase of Receivables program -- alternative retail gas suppliers cannot afford to take on customers who are credit risks or retain customers that are not paying in full, because the Companies must be fully compensated for non-commodity charges before the alternative supplier sees the first dollar of current billing. (*See* IGS Initial Brief at 13-14.) IGS further noted that because the Companies did not calculate a non-commodity uncollectable rate for sales customers and Choices For You customers, the Companies cannot establish that Choices For You customers -- in spite of the realities of the market -- contribute equally to non-commodity uncollectables as sales customers. (*See id.*)

IGS points out that no party -- IGS, the Companies, or the Commission -- can know based on the current record precisely how much Choices For You customers are overcharged due to this inequity, because the Companies failed to produce any information about the costs associated with the functions that IGS highlighted. (*See* IGS Initial Brief at 15.) Thus, IGS explains that although the competitive market and the Commission's policy favoring competition would be best served by assigning costs to causers, there is only sufficient evidence in the record for the Commission to order the Companies to undertake a detailed analysis of cost causation. (*See id.* at 14-16.) IGS notes that there simply is not enough evidence in the record to properly establish a credit for Choices For You customers. (*See id.* at 14.) As a result, IGS proposes that the Commission mitigate the inequity in the near term by charging Choices For You administrative fees the same way the Companies charge generally applicable administrative fees, so Choices For You customers will no longer both pay for some of sales customers' costs and all of their own. (*See id.* at 15.)

<u>COMMISSION ANALYSIS AND CONCLUSIONS</u>

The Commission is concerned that the Companies are attempting to charge administrative fees in an inconsistent manner, and in a way that burdens the competitive market. The Commission is also concerned by the Companies' failure to provide complete information regarding how it calculates and recovers administrative fees – both the information and the explanation provided by the Companies is less than transparent and does not deserve a presumption of accuracy. The Commission, as well as several litigants, spent significant time and effort attempting to remove barriers to competition in the Companies' last rate case. However, due to the mystifying lack of cost causation information -- most notably that the Companies cannot identify the costs associated with individual functions for which it recovers its costs – the Commission is compelled to take further action. Under normal circumstances, the best approach would be to assign costs to their causers, because that approach best fosters a competitive environment. However, the Companies themselves could not provide adequate information to make that type of accurate cost assignment feasible at this stage. Accordingly, the Commission approves IGS's alternative proposal under which the Companies are direct to charge Choices For You administrative fees to all customers eligible to participate in the Choices For You program. This approach to correcting this problem is not only compelled by the evidence in this proceeding, but is also consistent with our approach to cost recovery in other analogous circumstances where *all* customers who have the opportunity to participate in a program contribute to the cost of that program, even if some of those customers may not actually use the program.

The approach outlined above is a first step toward correcting the Companies' inaccurate allocation and recovery of costs. In their next rate case proceeding, the Companies are directed to provide specific and verifiable cost causation information with regard to the functions for which it recovers costs through any administrative fee. That cost causation information must, at a minimum, indicate which customer groups cause the costs, and all costs associated with individual functions. The Companies are also directed to calculate the non-commodity uncollectable rate for Choices For You and Large Volume Transportation customers, by rate class, to determine whether transportation customers should receive a credit for non-commodity uncollectables. IGS raised several good points with regard to both non-commodity uncollectables and apparently overlapping/redundant functions, but there simply is not evidence in the record to quantify the credit, if any, transportation customers of a particular service class or subclass should receive.

E. Small Volume Transportation Program (Choices for You^{SM} or "CFY")

This subsection discusses the Choices For You administrative fees that are charged to Choices For You suppliers and their customers, but which IGS recommends should be billed to all eligible customers. (*See* IGS Initial Brief at 16-17.)

1. Aggregation Charge

IGS argues that the Aggregation Charge, also referred to as the Choices For You administrative charge, is simply not charged consistently with cost causation principles. (*See* IGS Initial Brief at 16-17.) IGS argues that all customers who are eligible for Choices For You benefit from Choices For You, so all customers should be charged for the program -- consistently with how generally applicable administrative fees are charged. (*See* IGS Initial Brief at 17.) Thus, charging Choices For You administrative fees to all eligible customers, IGS notes, would be consistent with cost causation principles. (*See* IGS Initial Brief at 17-22.) IGS continues that, if the Commission does not charge Choices For You fees to all eligible customers, then the Companies should have to perform detailed cost causation analysis for the Gas Transportation Services ("GTS") department, and simultaneously develop a credit for generally applicable administrative fees for all costs that Choices For You customers do not cause. (*See id.*)

IGS presents substantial evidence that the Choices For You administrative fees should be paid for by all eligible customers. IGS essentially cites three reasons for the Commission to approve this move: (1) the Commission approved collection of similar fees from all eligible customers in Nicor's last rate case and directed the Companies to address that approach in workshops; (2) IGS has developed evidence in this proceeding that all customers benefit from availability of Choices For You; and (3) the Commission approves recovery from all customers of other programs where all customers benefit, even though only not all customers use it. (*See, e.g.*, IGS Initial Brief at 17-22.) With regard to Nicor's last rate case, IGS notes that the Commission approved a system where Nicor Gas's administrative fees for the small volume choice program were recovered from all eligible customers. (*See* IGS Initial Brief at 18 (citing ICC Docket No. 08-0363, Final Order dated March 25, 2009 at 128.) IGS notes that in the Companies' last rate case, the Commission mandated the Companies to address implementation the Nicor Gas model for collecting Choices For You administrative fees in a workshop process, although the Companies have nevertheless maintained the *status quo*. (*See* IGS Initial Brief at 18-19.)

IGS also notes that it developed evidence that all eligible customers benefit from Choices For You, including sales customers. IGS in particular points to a cross examination exchange with the Companies' witness Mr. McKendry in which Mr. McKendry admitted that sales customers benefit from the ongoing operation of Choices For You because those sales customers have the ability to switch to a competitive supplier at any time. (*See* IGS Initial Brief at 19-20 (quoting transcript).) IGS argues that Mr. McKendry's admission confirms the conclusions of IGS expert witness Mr. Parisi, who testified to the benefits that the ongoing operation of Choices For You brings to all eligible customers. (*See, e.g.* IGS Initial Brief at 19.)

IGS further proffered evidence that the converse is true as well: charging Choices For You fees to only Choices For You customers amounts to a switching fee; removing such a fee, IGS argues, would advance the Commission policy favoring competition. (*See* IGS Initial Brief at 20.) IGS acknowledges that the Companies and Staff do not agree that Choices For You benefits all customers, but IGS contends that neither Staff nor the Companies rebutted the evidence marshaled by IGS. (*See, e.g.*, IGS Initial Brief at 21-22.)

IGS also presented evidence that the Companies have requested -- and the Commission has approved -- recovery of certain costs from all eligible customers even though only a subset of customers actually use the service. (*See* IGS Initial Brief at 20-21.) IGS points out that the Companies themselves argued in their 2007 rate case that, for energy efficiency programs, all customers should be charged even though not all customers availed themselves of the program. (*See* IGS Initial Brief at 20-21.) IGS notes the Commission agreed over Staff's objection. (*See id.* at 21.) IGS registers its agreement with the Companies' position from the 2007 rate, and notes that the Companies also charge for the call center in a similar manner. (*See id.* at 21.)

IGS concludes that because all customers benefit and the Commission has approved the approach for administrative fees (and other programs), the Companies should be compelled to collect Choices For You administrative fees from all eligible customers. (*See, e.g.* IGS Initial Brief at 22.) IGS notes that this fits in as a part of a larger issue: in order to fix market imbalances caused by inconsistent methodologies for charging generally applicable administrative fees and Choices For You administrative fees, the Commission should take the initial step of charging both sets of fees consistently, *i.e.* to all eligible customers. (*See, e.g.* IGS Initial Brief at 4, 11.)

However, it the Commission rejects IGS's suggestion to charge Choices For You administrative fees to all eligible customers, IGS recommends that the Commission force the Companies to undertake a detailed cost-causation analysis. (*See* IGS Initial Brief at 22.) IGS notes that the record is currently inadequate to properly assign costs to their causers. (*See* IGS Initial Brief at 22-23.) In addition to the problems IGS identified in Section XI.C, IGS highlights the Companies' failure to properly allocate costs for the Gas Transportation Services department. (*See* IGS Initial Brief at 23-25.) IGS argues that the sole allocator the Companies present is based on estimated labor, and does not account for capital costs, non-labor direct O&M costs, or indirect O&M costs. (*See* IGS Initial Brief at 23-24.) IGS argues that the Companies did not justify their failure to allocate these additional costs -- which the Companies acknowledge are recovered through Choices For You administrative fees. (*See id.* at 24.)

IGS notes that a key component of its recommendation is that both large volume transportation and Choices For You customers are treated the same, so no new subsidies from inconsistent treatment are created. (*See* IGS Initial Brief at 11.)

COMMISSION ANALYSIS AND CONCLUSIONS

As described above in the Commission's Analysis and Conclusions in Section XI.C above, the Commission directs the Companies to charge the Aggregation Charge, also known as the Choices For You administrative fees, to all eligible customers. The Commission further orders that Large Volume Transportation administrative fees be charged to all eligible customers.

As IGS points out, the Commission has a strong policy of assigning costs to cost causers. Had the Companies provided even basic cost causation information, the parties could have at least credibly argued the issue. However, the Companies provided an allocator for Gas Transportation Services ("GTS") department that IGS has established does not reflect cost causation. In addition to the detailed study of cost information ordered in Section XI.C above, the Commission directs the Companies to provide more detailed allocation factors for Gas Transportation Services that take into account all costs involved.

Separate from and independent of the GTS department allocation, IGS raises several compelling arguments based on credible evidence in favor of charging transportation-related costs to all eligible customers. The Commission notes that the Companies admitted that current transportation customers pay for excess GTS capacity that allows current sales customers to become transportation customers at any time. Assigning costs to customers who benefit from a program is fully consistent with the Commission cost causation policies, an approach the Commission allows the Companies to take with other programs (including the call center and energy efficiency programs). Although Staff and the Companies argued that only Choices For You customers benefit from the Choices For You program, neither rebutted the evidence presented by IGS that all eligible customers do, in fact, benefit from Choices For You. As a result, the Companies are ordered to charge GTS costs allocated to small volume and large volume customers to all eligible customers for the respective programs.

2. Purchase of Receivables (withdrawn)

IGS notes that, in his Direct Testimony, IGS expert witness Mr. Parisi recommended that the Companies implement a Purchase of Receivables program in the present dockets as a remedy for the Companies' unequal treatment of sales customers and Choices For You customers. (*See*

IGS Initial Brief at 25.) However, as IGS points out, in his Rebuttal Testimony, IGS witness Mr. Parisi withdrew that recommendation. (*See* IGS Initial Brief at 25.) IGS observes that the issue of Purchase of Receivables is no longer before the Commission as an open issue, and instead IGS urges the Commission to pay special attention to inequities in the administrative fees facing Choices For You customers. (*See id.* at 26.)

COMMISSION ANALYSIS AND CONCLUSIONS

The issue of Purchase of Receivables has been withdrawn as an issue for consideration in the context of this proceeding. Thus the Commission need not and will not address evidence presented by IGS, Staff, or, any other party regarding Purchase of Receivables.

XII.

CONCLUSION

IGS respectfully requests that the Commission enter an Order:

1. Requiring the Companies to collect Choices For You administrative fees (the Companies' Aggregation Charges) from all eligible customers.
2. In the alternative, requiring the Companies to undertake detailed cost-causation analysis of the administrative fees to all customers and the Gas Transportation Services allocation factors;
3. Requiring the Companies to adjust treatment of Large Volume Transportation customers' fees to mirror changes to Choices For You customers.
4. Accepting Staff's proposal to open an investigation into the Companies' practices supporting their affiliate and its warranty product;
5. Requiring the Companies to provide access to their billing and solicitation assets to non-affiliates on a non-discriminatory basis; and
6. Granting any additional relief that the Commission determines to be in the interests of justice.

(IGS Initial Brief at 26-27.)

Respectfully submitted,

INTERSTATE GAS SUPPLY OF ILLINOIS, INC.

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